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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,258	08/01/2001	Roy S. Hickok	81289-243325	4029

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EXAMINER

CHOI, JACOB Y

ART UNIT PAPER NUMBER

2875

DATE MAILED: 11/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/920,258

Applicant(s)

HICKOK ET AL.

Examiner

Jacob Y. Choi

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/1/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

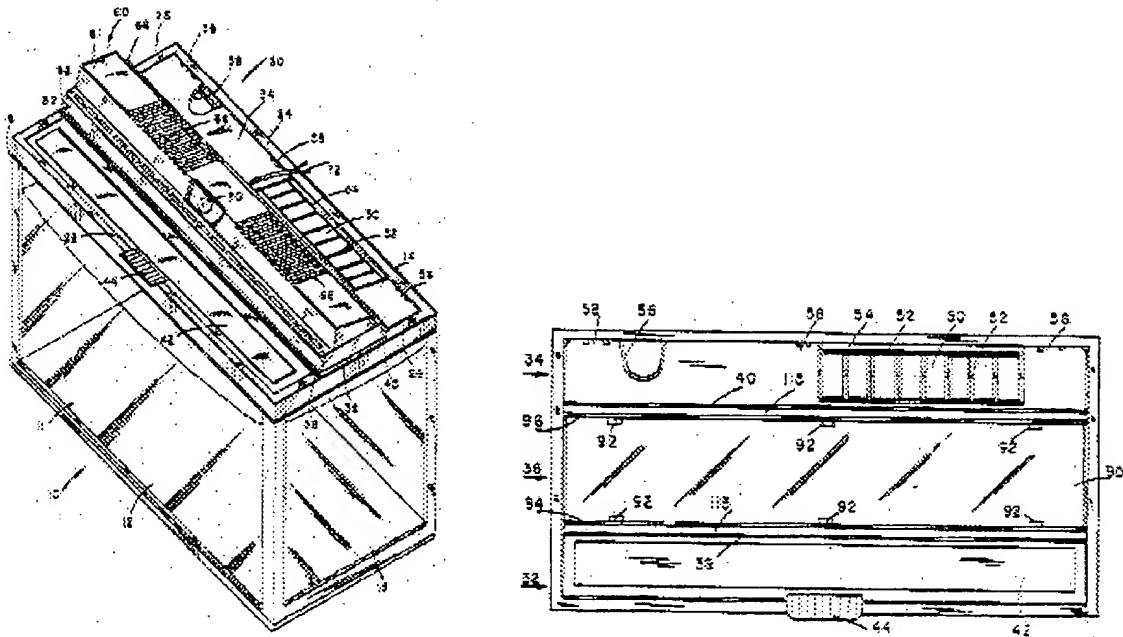
1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willinger (USPN 3,857,366) in view of Chen (USPN 5,479,327).

Regarding claims 1, 8, 13, 14 and 15, Willinger discloses an aquarium tank (10), the frame (e.g., 24 & 28) designed to selectively engage and position the hood (30), the hood having a top covering element *generally* extending over the top opening of the tank (e.g., Figures 1-4, 5-11), a retaining hinge (e.g., column 2, lines 50-55; 38, 40) rotatably attached to the top covering element and removably coupled to the frame, wherein the hinge comprising, a first portion formed with and extending from the top covering element (e.g., Figure 9), a second portion joined to the first portion and selectively engaging the frame such that the hood can rotate through an angle of at least 90 degrees relative to the tank (e.g., Figure 9; 32'), a lamp retaining mechanism (e.g., Figures 11-13; columns 8-9, lines 60-15) located the top covering element adjacent to the top opening of the tank and extending towards the top opening of the tank (10), a reflector panel (106), the lamp retaining mechanism configured to hold a

bulb (120, 122) in an alignment substantially parallel to the top covering element (e.g., Figures 11-13).



Willinger discloses the claimed invention except for the generally cylindrical collar joined to the lamp retaining mechanism.

Chen teaches lighting fixture for aquariums utilizing water sealing jackets (collar) joined to the lamp retaining mechanism and engaging a portion of the bulb when the bulb is coupled with the lamp retaining mechanism, the jackets inhibiting the passage of water around the bulb and into a socket portion of the lamp retaining mechanism (claim 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine teachings of Willinger with water sealing jackets of Chen to prevent the leakage of electricity (column 2, lines 20-25).

Note: claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974).

Regarding claim 2, Willinger in view of Chen discloses the claimed invention, explained above. In addition, Willinger discloses the top covering element is composed of a first portion located towards the front of the tank, and a second *generally* arcuate portion located towards the rear of the tank (column 2, lines 50-55; 38, 40).

Regarding claims 3 and 9, Willinger in view of Chen discloses the claimed invention, explained above. In addition, Chen discloses the jacket is a generally cylindrical, heat-resistance elastomer jacket.

Regarding claims 4 and 11, Willinger in view of Chen discloses the claimed invention, explained above. In addition, Chen discloses the hood includes a socket cover (62) that is disposed about at least portion of the lamp retaining mechanism and the jacket

Regarding claims 5 and 10, Willinger in view of Chen discloses the claimed invention, explained above. In addition, Willinger discloses the top-covering element defines a plurality of openings located above the lamp retaining mechanism (50).

Regarding claims 6 and 12, Willinger in view of Chen discloses the claimed invention, explained above. In addition, Willinger discloses the top-covering element includes a section that *may be* selectively removed so that tank accessory *may be* inserted through the hood and into the tank.

Regarding claim 7, Willinger in view of Chen discloses the claimed invention, explained above. In addition, Willinger discloses the top-covering element further defines an opening.

Response to Amendment

3. Examiner acknowledges that the applicant has amended claims 8 & 14 to correct informalities. Claims 1-15 are pending in the present application.

Response to Arguments

4. Applicant's arguments filed 9/1/2005 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that prior art reference Willinger (USPN 3,857,366) clearly disclosed the aquarium cover (30) is attached to the aquarium tank (10) by way of a hinge (e.g., column 2, lines 50-55; 38, 40).

Also, it is noted that the features upon which applicant relies (i.e., "*full access to the aquarium tank as opposed to the partial access allowed by opening of the panel*") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In addition, prior art reference Willinger (USPN 3,857,366) specifically recites in the abstract; "*an aquarium cover has a elongate planar frame member having two longitudinal edges. Elongate side panels generally of the same length as the frame member are integral with and hingedly connected to the planar frame member along opposite ones of the longitudinal edges. The planar frame member has an opening therein closed by a pane of glass. The panels are so arranged so as to be movable from extended positions wherein the panels are co-planar with the frame member and*

wherein the cover is adapted to cover an aquarium ... etc" In the "Brief Description of the Drawings" of Willinger, drawing Figure 5 is described, as "*Fig. 5 is a top plan view of the aquarium cover, with the light assembly removed*".

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Y. Choi whose telephone number is (571) 272-2367. The examiner can normally be reached on Monday-Friday (10:00-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2875

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JC



JOHN ANTHONY WARD
PRIMARY EXAMINER